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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,411	09/12/2003	Gary A. Snyder	SN1.P01	6660

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EXAMINER

CHAWLA, JYOTI

ART UNIT PAPER NUMBER

1761

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/661,411

Applicant(s)

SNYDER, GARY A.

Examiner

Jyoti Chawla

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/6/2006</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Shillington et al (US 3533810) as evidenced by the data about methyl anthranilate by www.thegoodscentcompany.com.

Shillington et al., hereinafter Shillington, teaches application of a composition comprising methyl anthranilate to post harvest fruits and vegetables (Column 1, lines 15-35) and specifically to pome fruits such as apples and pears (Column 4, lines 73-75) as recited by the applicant in claims 1-14. Shillington teaches treatment of fruits and vegetables in general however, examples 6-8 in Column 4, specifically teach the process of treating apples and pears as recited by the applicant in claims 3, 4, 6, 7, 9, 10, 12 and 13. Shillington teaches application methyl anthranilate containing composition to unpeeled whole fruits and vegetables by coating the surface of the whole fruit by dipping or immersing the whole fruit in the composition (Column 2, lines 43-61 and column 4, lines 57-75) as recited by the applicant in claims 2, 4 and 10.

Methyl anthranilate has been known in the art to have an inherent property of imparting a grape odor and flavor to compositions (foods, beverages, perfumes), as evidenced by

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the detailed datasheet from www.thegoodscentcompany.com . Regarding the adsorption of the compound by the fruit or vegetable, Shillington teaches that application of methyl anthranilate containing composition enhances the aroma of the created product (Column 2, lines 26-28) and that methyl anthranilate also functions as an optical filter while providing aromatic freshness to the article of produce (Column 3, lines 1-7). Thus Shillington teaches of the adsorption of methyl anthranilate on the fruit and resulting flavor and aroma enhancement (characteristic concord grape aroma and flavor) as recited by the applicant in claims 1-14.

Therefore, Shillington as evidenced by www.thegoodscentcompany.com anticipates applicant's claims 1-14.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

Determining the scope and contents of the prior art.
Ascertaining the differences between the prior art and the claims at issue.

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Resolving the level of ordinary skill in the pertinent art.

Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kare (US 2967128) in view of the combination of Weaver (US 3669684) and Michael (US 3427167).

Kare teaches bird repellants, i.e., flavored compounds that considered pleasant to humans, when applied to foods and other objects, render the objects unattractive to birds (Column 1, lines 15-55). Kare teaches application of compounds like dimethyl anthranilate, and methyl anthranilate to foods is effective in repelling birds, while it is not harmful to the foods and animals (Column 2, lines 57-71). Kare further teaches that the composition comprising methyl anthranilate can either be sprayed or sprinkled on to the foods or alternatively the foods can be soaked in the composition and dried (Column 3, lines 16-38).

Weaver teaches a process of enhancing the flavor of foods (e.g., fruit, vegetable, nuts and eggs), where the foods in their natural state may be given additional flavor of the same or another food, such that a single natural food (e.g., fruit) itself would contain either enhanced or blended flavors (Column 1, line 25-40 and 55-68; Column 2, lines 1-3). Weaver teaches subjecting the food to a desired flavor-imparting ingredient, such as, the flavor essence or concentrate (Column 2, line 60 to Column 3, line 10).

Weaver teaches exposing the whole natural foods, such as, uncut and unpeeled fruits, vegetables and eggs etc., to desired flavors (Columns 3-6). Weaver also teaches imparting flavors to pears and apples (Column 5 and 6, examples 6, 7, 12 and 13) as recited by the applicant. Weaver, however, does not teach addition of methyl

anthranilate to the flavoring composition and also does not teach dipping the fruits in the flavoring composition.

Michael teaches that methyl anthranilate has been used in the food industry to make grape flavored drinks and enhance the grape flavor of food products like jams and jellies etc. (Columns 1 and 2).

Methyl anthranilate and dimethyl anthranilate both compounds provide characteristic grape flavor and aroma as evidenced by www.thegoodscentcompany.com .

Methyl anthranilate has been used to flavor crops and food and other articles (by spraying or dipping) to render the treated articles unattractive to birds while still maintaining desirability for other animals and humans (Kare). Flavoring compounds have been employed to impart different flavors or to enhance the natural flavors of harvested whole fruits and vegetables (apples and pears) in the art (Weaver). Methyl anthranilate has been known in the art for its characteristic grape flavor and aroma that it imparts to the composition it is added (Michael). Grape flavor is one of the popular flavors for consumers, especially kids. Therefore it would have been obvious to one with ordinary skill in the art at the time of the invention to modify Kare and apply composition containing methyl anthranilate to apples, pears among other fruits or vegetables to add to the natural flavor of these fruits and also make the natural foods more attractive and palatable for consumers. One would have been further motivated to do so in order to encourage healthier eating habits by giving the regular fruits and vegetables a flavor twist to make eating fruits and vegetables more interesting to children.

Conclusion

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:


Gross (US 3071474) teaches that methyl anthranilate is an important compound found in fresh grape juice that is responsible for the characteristic fresh grape juice flavor and aroma in food.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jyoti Chawla whose telephone number is (571) 272-8212. The examiner can normally be reached on 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jyoti Chawla
Examiner
Art Unit 1761


KEITH HENDRICKS
PRIMARY EXAMINER